

HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLICATION NO.59 OF 1993.

Date of decision: 8.11.1995.

For approval and signature

The Honourable Mr. Justice S.M. Soni

and

The Honourable Mr. Justice R.R.Jain

Sultanali Mosinali Vora, party in person.

Mr. P.S. Patel, AGP for respondents.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram:S.M.Soni & R.R.Jain,JJ.

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November 8, 1995.

Oral judgment (Per Soni, J)

Heard Mr. Sultanali Vora, who is present in court. He has filed this application for taking necessary action under Contempt of Courts Act for noncompliance of the order passed by this court (Coram: S.M.Soni, J) in Special Civil Application No.9513 of 1992 on 15.1.1993. According to the applicant, in view of the order passed in Special Civil Application, authority was required to take final decision on or before 22.1.1993. Having not taken decision on or before that date, respondents have committed contempt of this Court.

This Court (Coram: S.M.Soni, J.) in Special Civil Application No.9513 of 1992, has passed the following order on 15.1.1993:

"On the petitioner presenting himself before the Range Forest Officer, Naswadi on 16.1.1993, the Range Forest Officer, shall hold necessary enquiry into the matter and also exercise his powers under section 68 of the Indian Forests Act, 1927, in case the petitioner is prepared to compound the offence before him. If the petitioner is not prepared to compound the offence there on that day, he shall dispose of the enquiry as expeditiously as he can and the petitioner shall cooperate with the enquiry officer and in that case the enquiry shall be finished up in any case within seven days from tomorrow, i.e., the enquiry shall be completed by or before 22.1.1993. It is hoped that the department shall take a practical view in the matter and pass the necessary orders pertaining to muddamal. In this view of the order, the petition stands disposed. Rule discharged with no order as to costs. Direct service permitted."

Vide that order, respondents were directed to hold inquiry and dispose of the same on or before 22.1.1993. However, vide that order, the applicant was also required to present himself before the authority on 16.1.1993 and decide whether he would like to compromise the matter or not. It appears that he compromised the matter and the authority released the truck and decided to hold inquiry for muddamal. The truck was released and handed over to the applicant on his furnishing bond before the authority. In the said bond it has been stated by the applicant that for the purpose of inquiry, he shall produce necessary documentary evidence on or before 27.1.1993. He has, however, suggested that certain documents are already produced. It appears that he had certain more documents to be produced at the relevant time. It is open for the applicant to state that the documents which are already produced by him are

sufficient and no further documents are required to be produced. But he is required to state and disclose it before the authority. Unless he disclosed it before the authority that he has no further documents or evidence to be produced, the authority cannot take decision in the matter. Instead of disclosing before the authority that he has no other documents to be produced before the authority, it appears that the applicant has rushed to this court and filed this application on 27.1.1993 for taking necessary action under the Contempt of Courts Act.

In view of these facts, not taking decision before 22.1.1993 cannot be said to be a noncompliance of the direction given by this court. This apart, giving a schedule by a court stands automatically extended if a party does not comply with the schedule and carry on the formalities which are required to be completed on his part. In the instant case, it appears that the applicant has not complied with the formalities which were required to be done by him at his end, that is, production of documents, which he has stated that he was required to produce and he will produce on 27.1.1993. He also does not disclose before the authority that he does not want to produce any other document except those which are already before the authority.

In view of these state of affairs, if the authority has not decided the matter or has not completed the inquiry as directed by this court, it cannot be said to be a wilful disobedience of the order. Hence, when there is no wilful disobedience of the order of this court, there is no question of taking any action against the respondents under the provisions of clause (b) (ii) of the Contempt of Courts Act. Hence, this application is liable to be dismissed and is hereby dismissed. Rule is discharged. No order as to costs.